

STATE OF MICHIGAN
COURT OF APPEALS

ESTATE OF PAMELA ANN PONTE,

Petitioner-Appellee,

v

ROBERT FRANCIS PONTE,

Respondent-Appellant.

UNPUBLISHED

October 12, 2010

No. 292081

Washtenaw Circuit Court

LC No. 04-002966-DM

Before: MURPHY, C.J., and HOEKSTRA and STEPHENS, JJ.

PER CURIAM.

Defendant, who is an attorney representing himself, appeals as of right two orders entered by the trial court, each of which required defendant to pay sanctions in the amount of \$500. Defendant argues that there is no legal authority to impose the sanctions, that MCR 2.114 does not support the sanction orders, and that the imposition of the sanctions violated his due process rights. Defendant also argues on appeal that the trial court is biased against him and should be disqualified from presiding over any further proceedings. We reject defendant's arguments and affirm.

Whether the trial court has the authority to impose a sanction is a question of law subject to review de novo. *Persichini v William Beaumont Hosp*, 238 Mich App 626, 637; 607 NW2d 100 (1999). The exercise of a court's inherent power to sanction "may be disturbed only upon a finding that there has been a clear abuse of discretion." *Maldonado v Ford Motor Co*, 476 Mich 372, 388; 719 NW2d 809 (2006). When a court makes a decision that falls within a range of reasonable and principled outcomes, there is no abuse of discretion. *Id.*

Assuming that the trial court did not have the authority to impose the sanctions against defendant pursuant to MCR 2.114, as cited in one of the court's orders, we find that the trial court had the inherent authority to sanction defendant as it did on the basis of his conduct and filings. In *Maldonado*, 476 Mich at 375-376, our Supreme Court observed:

In this case we consider the essential authority of trial courts to control the proceedings before them. The issue in this case pertains to the extent of a trial court's authority to govern the conduct of counsel and their clients in court proceedings. Where the Michigan Constitution authorizes us to make rules to govern court proceedings, the authority to enforce those rules inescapably follows. At the heart of preserving an organized polity, we must attend to relevant

issues, including concerns over belligerent, antagonistic, or incompetent lawyering. To this end, we affirm the authority of trial courts to impose sanctions appropriate to contain and prevent abuses so as to ensure the orderly operation of justice.

We reiterate that trial courts possess the inherent authority to sanction litigants and their counsel This power is not governed so much by rule or statute, but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases. [Citations omitted.]

The trial court has the inherent authority to impose a sanction on the basis of a party's or attorney's misconduct. *Farmers Ins Exch v Kurzmann*, 257 Mich App 412, 424; 668 NW2d 199 (2003); *Persichini*, 238 Mich App at 639.

Here, the record shows that defendant repeatedly filed motions to disqualify the trial court, which were rejected by both the presiding judge and chief judge, along with motions for reconsideration following the denials, which were also rejected. The denial of a motion to disqualify did not stop defendant from simply filing another motion to disqualify in which he raised the same arguments previously presented. As indicated by the presiding judge and chief judge, defendant's complaints and demands for disqualification merely reflected dissatisfaction with the court's rulings.

The trial court indicated in its orders that it attempted to be patient with defendant and refrained from imposing sanctions relative to the repeated motions to disqualify, but the court concluded that its patience apparently only served to inspire greater efforts by defendant to seek disqualification.

Throughout the lower court proceedings, defendant was repeatedly ordered to pay plaintiff's attorney fees associated with myriad motions filed by defendant, despite his claims that opposing counsel was a habitual liar. Defendant's conduct giving rise to the payment of attorney fees was characterized as vexatious and wrongful by the trial court. The presiding judge and chief judge found that defendant's filings were often not in compliance with the court rules. With respect to the numerous motions filed by defendant, the trial court found that they violated the standards in MCR 2.114(D). The court also remarked that defendant filed multiple objections, demands, notices, and statements that were not paid for as motions and did not serve as motions, yet they managed to find their way to the court's office. The court noted that defendant was using every means possible, such as fax and personal delivery, to deliver documents and letters to the court. The trial court commented that defendant's filings consisted of opinions and harangues and that his willful disregard of the court rules and professional standards was unexcusable.

What is most alarming to us, and which supports the imposition of the sanctions under the inherent-power doctrine and not MCR 2.114, is defendant's unprofessional, disrespectful, and uncivil attitude toward the trial court during the proceedings as reflected in various documents filed with the court. Defendant repeatedly accused the court of living in a "fantasy world," of indulging in "fantasies" as to the proceedings and in making rulings, of having "a defect in her mental process," of inventing bizarre issues, of being "incompetent to judge this or

any legal matter,” of failing to comprehend or understand simple concepts, issues, and directions, and of being delusional and irrational. Defendant remarked that the trial court’s “persistent delusional and irrational thought process show her persistent incompetence.” Defendant also stated in a court filing that the judge’s “fantasy will make this remand a career case for her, as fantasy issue breeds fantasy issue.”

Defendant’s belligerent and antagonistic behavior and remarks are simply unacceptable and cannot be tolerated within our system of law, especially from a defendant who is an officer of the court. MRPC 3.5(c) provides that a lawyer “shall not engage in undignified and discourteous conduct toward the tribunal.” If defendant was unhappy with the trial court’s rulings on various matters, and we take no position on those matters, there is an appellate process that can be utilized, as opposed to a campaign of insults and derogatory remarks aimed at the trial court. Additionally, we find no merit in defendant’s associated due process claim.

Finally, with respect to defendant’s request to disqualify the trial court in regard to further proceedings, defendant has failed to overcome the heavy presumption of judicial impartiality, *Van Buren Charter Twp v Garter Belt, Inc*, 258 Mich App 594, 598; 673 NW2d 111 (2003), and he has not established personal and extrajudicial bias or prejudice, *Cain v Dep’t of Corrections*, 451 Mich 470, 495-496; 548 NW2d 210 (1996). Defendant alleges that the trial court’s adverse decisions and failure to resolve the so-called simple remand issue are evidence of bias against him. However, judicial rulings are almost never sufficient as a valid basis for allegations of bias, unless the judicial opinion displays a deep-seated favoritism or antagonism that would make fair judgment impossible. *Gates v Gates*, 256 Mich App 420, 440; 664 NW2d 231 (2003). Defendant has not established such a level of favoritism or antagonism. Indeed, we find that the trial court exercised a great deal of restraint in dealing with defendant.

Affirmed.

/s/ William B. Murphy
/s/ Joel P. Hoekstra
/s/ Cynthia Diane Stephens